



## **STAFF REPORT**

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### **RE-HEARING OF AN APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A SETBACK VARIANCE FOR 1814 OAK KNOLL DRIVE**

**July 8, 2003**

#### **Honorable Mayor and Council Members**

This July 8, 2003 City Council meeting has been scheduled for a re-hearing of the Eckert variance application. This re-hearing was an outcome of the mandatory settlement conference that followed from the suit filed by Mr. Eckert. The attached binder is the information submitted by Mr. Eckert in response to the re-hearing.

Staff has reviewed the information provided by the appellant and believes it provides new information regarding the request and the applicable Variance findings. With this new information, staff has concluded that the Council can either conduct the hearing or direct the matter to the Planning Commission for reconsideration.

Staff recommends based on the reasons enumerated below that the Council direct this matter to the Planning Commission so it may re-evaluate the application in light of the new information provided by the appellant. Because of this recommendation, staff has not provided in the written staff report a complete analysis of this new information. If the Council determines that it wishes to hear the appeal, staff will be prepared to provide that analysis verbally at the Council meeting.

#### **Project Description**

On May 14, 2002, by a 3-2 vote, the City Council adopted Resolution 9238 upholding the Planning Commission's decision to deny a Setback Variance to allow a deck extension to encroach four feet into the required fifteen foot rear yard setback at 1814 Oak Knoll Drive. The property has an existing deck which extends six feet off the upper rear level of the residence and extends the entire 40-foot width of the residence for a total of approximately 240 square feet. The proposed four-foot extension would add 120 square feet of deck area (360 square feet total for this deck) for the dwelling.

## **Discussion**

Mr. Eckert's submittal packet for the re-hearing includes both new information as well as a chronological compilation of documents (staff reports, resolutions, etc.) relating to both Commission and Council review of the requested setback variance. The information includes documents related to the approved setback variance for 1816 Oak Knoll Drive (adjacent property), approved Floor Area Exceptions for both 1814 and 1816 Oak Knoll Drive, and the property at 1915 Hillman Drive (adjacent downslope property to the rear of 1814 Oak Knoll). In staff's opinion, the new information relative to 1915 Hillman Drive provides a potential argument to reverse or modify the Council's decision to uphold the Planning Commission's action.

When new information is received on appeal, the Council may consider directing the matter back to the Planning Commission. The Commission serves as the Council's initial land use hearing body. Since Mr. Eckert offers information not previously presented to or considered by the Commission, it is reasonable to direct them to re-consider the request. By having the Commission evaluate the variance findings in light of new information, the Council and community receive the benefit of the Commission's experience. This experience is derived from reviewing numerous planning applications, including several variances in the past two years - many more than are considered by the Council on appeal.

## **Recommendation**

Staff recommends that the City Council direct this matter to the Planning Commission for reconsideration, including a public hearing, receipt and consideration of new testimony, and action on the variance application.

**Fiscal Impact:** None

## **Alternatives:**

1. Open the hearing, receive testimony and decide the appeal

**Attachments:** Binder from Steve Eckert

Respectfully submitted,

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Craig A. Ewing  
Planning and Community Dev't Dir.

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Jere A. Kersnar  
City Manager